IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1414 OF 2005

Nandu Badal Banerjee
Adult, R/o. Annai Chawl No.2,
Room No.7, Babrekar Nagar, Charkop
Kandivli (West), Mumbai-67.
At present Convict No.C/11951
Yerwada Central Prison, Pune. ...Petitioner

Vs.

The State of Maharashtra & Ors. ...Respondents

Mr. B.G.Tangsali for the Petitioner
Mrs. A.S. Pail, A.P.P for the State.

CORAM: SHRI J.N.PATEL &
SMT. ROSHAN DALVI, JJ.
DATED: 8TH SEPTEMBER, 2006

P.C.

1. This is a Petition under Section 427 of the Criminal Procedure Code filed by the Petitioner who has been convicted and sentenced to suffer R.I for a period of 10 years in 2 separate and distinct criminal cases. The Petitioner has prayed for the order of sentence in these 2 cases to run concurrently, under the latter part of Section 427(1) of the Criminal Procedure Code.

2. The Petitioner has been sentenced in Case No.483 of

1998 and Sessions Case No.1370 of 1995 for entirely separate distinct offences.

3. In Sessions Case No.483 of 1998 decided on 11th March 2004, the Sessions Court has convicted the Petitioner under Sections 366, 376 (2)(g) and 506 (II) r.w. Section 34 of the Indian Penal Code. In Sessions Case No.1370 of 1995 decided on 9th April 2001, the Sessions Court has convicted the Petitioner under Section 452 and 395 of the Indian Penal Code.

4. Sentences have been separately pronounced in these cases under each of these Sections. The sentences in the cases have been directed to run concurrently. However, the sentences in both the separate cases decided by two different Session Courts in the year 2001 and 2004, which are for different offences, have naturally not been ordered to run concurrently.

5. Upon conviction it is seen that the prosecution made out a case of kidnapping, abduction, gang-rape and criminal intimidation against the Petitioner in Sessions No.483 of 1998 beyond reasonable doubt. Similarly the prosecution made out the case of house trespass and decoity against the Petitioner in Sessions Case No.1370 of 1995 beyond reasonable doubt.

6. It is seen that the Petitioner committed several distinct offences of heinous nature at 2 different times. The punishment in these cases is commensurate with the offences committed. No special case is made out for exercising the discretion of allowing them to run concurrently under the special directions. The Petitioner must undergo the imprisonment for the 2 sentences consecutiv ely. The imprisonment for the second sentence shall commence at the expiration of the imprisonment of the first sentence passed against the Petitioner. Consequently the Petition is dismissed.

7. The Petitioner is in custody. He shall be informed of this order by the Registrar (Judicial), High Court, Bombay.

(SMT.ROSHAN DALVI, J.) (SHRI. J.N. PATEL, J.)